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DECISION



21590

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-205990

DATE: April 22, 1982

MATTER OF: Charles Judd, individually, and
d/b/a QC Services

DIGEST:

Where Department of Labor transmitted name of Service Contract Act violator to Comptroller General for placing on debarred bidders' list after 90-day period established by section 5(a) of act, GAO has no authority to remove name from list since GAO's only function under section 5(a) is purely ministerial, i.e., GAO places name on list pursuant to Department of Labor's request, primary responsibility for interpreting and administering act being vested in Department of Labor.

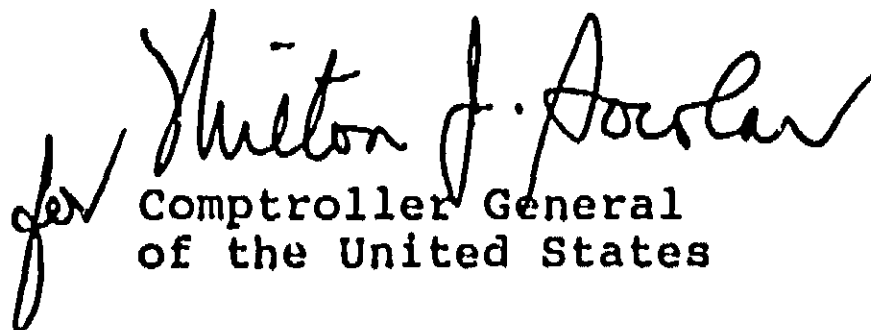
By letter of November 16, 1981, the Secretary of Labor requested the Comptroller General to place the name of Charles Judd, individually, and doing business as QC Services, on the list of persons and firms ineligible to be awarded Government contracts (List of Persons or Firms Currently Debarred for Violations of Various Public Contract Acts Incorporating Labor Standards Provisions) because of violations by Charles Judd of the Service Contract Act, 41 U.S.C. § 351, et seq. (1976). The name of Charles Judd, individually and d/b/a QC Services, was placed on the list of ineligibles on December 1, 1981.

Subsequently, by letter of December 18, 1981, counsel for Charles Judd requested that the Comptroller General render a decision declining to place the name of Charles Judd on the list of ineligibles. Apparently, as of December 18, 1981, Charles Judd had not yet been notified of his debarment. By legal brief dated January 28, 1982, Charles Judd requested that the Comptroller General remove the name of Charles Judd from the list of ineligibles.

For the following reasons, we decline to remove the name from the list.

The basis given for Charles Judd's request for relief is that the Secretary of Labor lacked authority to have the name of Charles Judd placed on the list of ineligible since the Secretary had not, pursuant to the requirement of section 5(a) of the act, 41 U.S.C. § 354(a) (1976), as implemented by section 6.12(b) of the Department of Labor's regulations (29 C.F.R. § 6.12(b)), forwarded the name of Charles Judd to the Comptroller General within 90 days after a hearing examiner had made a finding of a violation. A period of more than 2 years had expired between the time of the hearing examiner's (referred to as an administrative law judge) decision and the Secretary's letter to the Comptroller General. Charles Judd argues that not only is there no authority contained in the Service Contract Act for the Secretary of Labor to make a late transmittal to the Comptroller General, but there is no authority in the act for the Comptroller to receive and publish a late transmitted name or to waive the statutory time for making a transmittal.

It is the position of our Office that the Comptroller General's function under section 5(a) of the act is purely ministerial, i.e., the names of violators are placed on the list at the direction of the Secretary of Labor, which was done in the present case. Since our Office's function is purely ministerial, we disagree with the contention that our act in placing the names on list based upon the direction of the Secretary of Labor was without authority. Also, we have held that the primary responsibility for interpreting and administering the Service Contract Act is vested in the Department of Labor. See Digital Equipment Corporation, B-194363, April 23, 1979, 79-1 CPD 283, and Midwest Service and Supply Co. and Midwest Engine Incorporated, B-191554, July 13, 1978, 78-2 CPD 34. Therefore, we decline to remove the names from the list of ineligible since, in essence, to do so would be a determination which GAO does not have the authority to make.


Comptroller General
of the United States